No. 62.
Brief of Ridout for D. C. (Mo.)

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Supreme Court of the United States.

OCTOBER TERM, 1900.

No. 62.

S. A. AND S. C. HAZELTINE, *Plaintiffs in Error,* vs. THE CENTRAL NATIONAL BANK OF SPRINGFIELD, MISSOURI.	October Term, 1900. No. 62.

BRIEF FOR DEFENDANT IN ERROR ON MOTION TO DISMISS.

JOHN RIDOUT,
Attorney for Defendant in Error, for the purposes of this Motion.

LAW REPORTER PRINT.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1900.

No. 62.

S. A. AND S. C. HASELTINE, PLAINTIFFS IN ERROR,

vs.

THE CENTRAL NATIONAL BANK OF SPRINGFIELD, MISSOURI.

Comes now the defendant in error and moves the court to dismiss the writ of error in this case for want of jurisdiction, because the judgment of the Supreme Court of the State of Missouri, to which the writ of error was directed, was not a final judgment.

JOHN RIDOUT,
Attorney for Defendant in Error, for the purposes of this Motion.

To Mr. JAMES BAKER,
Attorney for Plaintiffs in Error:

Please take notice that on the 14th day of October, A. D. 1901, at the opening of the court or as soon thereafter as counsel can be heard, the motion of which the foregoing is a copy, will be submitted to the Supreme Court of the United States for the decision of the court thereon.

Annexed hereto is a copy of my brief or argument in support of said motion.

JOHN RIDOUT,
Attorney for Defendant in Error, for the purposes of this Motion.

IN THE SUPREME COURT OF THE UNITED STATES

S. A. AND S. C. HAZELTINE,
Plaintiffs in Error,
vs.
THE CENTRAL NATIONAL BANK
OF SPRINGFIELD, MISSOURI.

October Term, 1900.
No. 62.

BRIEF FOR DEFENDANT IN ERROR ON MOTION TO DISMISS.

STATEMENT OF THE CASE.

This is an action brought originally in the Circuit Court for Greene County, Missouri, by the plaintiffs in error against the defendant in error, to recover twice the amount of alleged usurious interest, the action being founded upon the provisions of the second clause of section 5198, of the Revised Statutes of the United States.

The trial court rendered judgment in favor of the plaintiffs in error for $831.70.

From this judgment the defendant in error appealed to the Supreme Court of the State of Missouri, which court reversed the judgment of the trial court and remanded the cause for further proceedings in accordance with its opinion (Rec., pp. 8 to 11, 14 and 15).

The plaintiffs in error sued out a writ of error professedly under the provisions of section 709 of the Revised Statutes of the United States (Rec., p. 1).

The defendant in error now moves the court to dismiss the writ of error on the ground that the judgment sought to be reviewed by the writ of error, is not a final judgment

within the meaning of section 709, of the Revised Statutes of the United States.

In support of this contention, it is submitted that from a very early period in the history of this court and upon the soundest principle of appellate procedure, the following proposition has been established:

That the judgment of the highest court of law of a State is not a final judgment within the twenty-fifth section of the Judiciary Act of 1789 (Sec. 709, Revised Statutes of the United States), if the cause has been remanded to the inferior State court for further proceedings consistent with the judgment of the highest court.

This proposition is supported by an unbroken line of decisions of this court.

It is not deemed proper to cite all of these decisions, but the following are cited as especially applicable to the case at bar:

Parcels *vs.* Johnson, 20 Wallace, 653.
McCouch, Exr., *vs.* Commissioners, etc., 91 U. S. 1.
Baker et al. *vs.* White, 92 U. S. 176.
Bostwick *vs.* Brinkerhoff, 106 U. S. 3.
Johnson *vs.* Keith, 117 U. S. 199.

Upon principle and authority it is respectfully submitted that this writ of error should be dismissed.

JOHN RIDOUT,
Attorney for Defendant in Error, for the purposes of this Motion.